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REMARKS

The Applicant appreciates the thorough review of the application by the Examiner.

Reconsideration and allowance are requested.

Claims 1-10, 15-17 and 20 stand rejected over prior art.

Claim 1 has been amended to correct the expression that the tip of the extension slides the movable strip outward from the container. The examiner has recognized that, and that is why Leopoldi was cited.

Claims 1-10, 15-17 and 20 are patentable under 35 U.S.C. § 103(a) as being obvious over Krzyzanowski. (US 3,276,622 in view of Leopoldi (US 4,071,165).

"To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Krzyzanowski discloses a carton of foldable tissues that includes a movable member which can be rotated to lift a folded edge of an article packed in the carton. Portions of the carton wall have an opening through which a folded portion of a tissue is lifted. See Figure 6.

Leopoldi has a cover 17 lifted by spring 20. A free-hanging member 22 with a non-metallic foot 29 is rotated forward (phantom) by depressing cover 17, dispensing one sheet at a time from the top of the pile. The spring 20 lifts the cover and positions member 22 to dispense the next piece of paper on the stack as shown in Figure 4.

The Examiner believes that it would have been obvious to modify the dispenser of Krzyzanowski "to include articles contained in the dispenser to be paper strips and further include a friction surface at the tip of the extension as taught by Leopoldi because the dispenser apparatus could be used to dispense a wide array of article and the high friction surface would provide a better friction contact between the tip of the extension and the top most strip in the stack (Office Action, p. 3, lines 8-13)."

Applicant does not agree with the Examiner's conclusions. In this regard, it would not have been obvious to modify Krzyzanowski to include articles contained in the dispenser to be paper strips because to do so would make the device unsuitable for its intended purpose. Krzyzanowski discloses stacked, folded tissues as an example of an article that could be removed from the container. Krzyzanowski operates by stacking creased objects in a container, sliding under and lifting a portion of a single object's creased end with a rotatable arm, and forcing the object through the opening in the container.

In a paper dispenser such as Leopoldi's leaving the paper in perfect form is crucial and creasing of the paper strips caused by the moveable member would be fatal to the purpose of the invention. Therefore, the nonmetallic end 29 of Leopoldi could not have engaged and lifted Krzyzanowski's folded tissue end. It is well established, that if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). See MPEP§ 2143.01(V).

Furthermore, it would not have been obvious to modify Krzyzanowski to contain a high friction tip. Krzyzanowski operates by stacking creased objects in a container, moving under a

single tissue's crease end with a rotatable arm, and lifting and forcing a middle portion of the object's end through the opening in the container. Additionally, if Krzyzanowski contained a high friction tip it could not slide under and lift a middle portion of a folded end and force it out of the containers opening. Therefore, there was no motivation or incentive present in Krzyzanowski to modify the dispensing member to contain a high friction tip. For at least this reason, and because as noted above the use of paper strips would make the Krzyzanowski device unsuitable for its intended purpose, the rejection of Claims 1-10, 15-17 and 20 based on a combination of Krzyzanowski and Leopoldi is improper and should be withdrawn.

Claim 1 and its dependant Claims 2-14 distinguish from Krzyzanowski and Leopoldi by pointing out an extension connected to a lever.

Claim 2 adds that the cover is the lever, not found in Krzyzanowski and Leopoldi.

Claim 3 adds that the extension extends opposite the direction of the lever, not found in Krzyzanowski or Leopoldi.

Claim 4 points out that a friction side is found on one side of the extension and not the other, not found in Krzyzanowski or Leopoldi.

Claim 5 adds that the lever is a lid, not found in Krzyzanowski or Leopoldi.

Claim 6 adds that the lever is a lid for opening part of the container, not found in Krzyzanowski or Leopoldi.

Claim 7 adds that the extension is flexible, not found in Krzyzanowski or Leopoldi.

Claim 8 adds to Claim 5 the aligned strips, not found in Krzyzanowski or Leopoldi.

Claim 9 adds to Claim 8 the dispensing opening over the entire end of the container.

There is no end in Leopoldi; the opening is not over the entire end in Krzyzanowski.

Additionally, in claims 9 and 10 the dispensing opening extends substantially over an entire end of the container. Additionally, the hinged lid at dispensing end completely covers one edge of the container. However, Krzyzanowski discloses that only a portion of one of the cartons edges will be opened to withdraw a fixed tissue and the moveable hinge acts as part of the carton's wall. A review of the Krzyzanowski patent reveals that it does not teach that the dispensing opening extends substantially over the entire end of the container. Nothing in the references teach or suggest the dispensing opening extends substantially over an edge of the container or the moveable hinge covers a full edge of the container. Therefore, the references cannot render obvious the present invention as claimed. Because the references fail to teach or suggest all of the elements of claims 9 and 10, the rejection of claims 9 and 10 are improper and should be withdrawn.

Claim 15 and its dependant claims 16 and 17 distinguish the invention from the references by pointing out, inter alia, the friction surface on an extension and sliding the side opposite the friction surface. Krzyzanowski does not and can not have a friction surface. Leopoldi does not have a side opposite the friction surface. The same surface engages the top sheet in both Leopoldi's directions.

Claim 16 points out, inter alia, the moving of the tip of the extension away from the next adjacent strip, which does not occur in Krzyzanowski or Leopoldi.

Claim 20 distinguishes the inventor from Krzyzanowski and Leopoldi by pointing out an extension on a cover, which Leopoldi does not have and a friction surface on the extension, which Krzyzanowski does not have and which would do violence to the sliding, slipping under, and lifting of a folded edge by Krzyzanowski.

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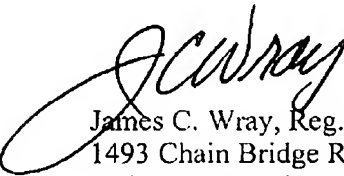
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The invention, as claimed is new and unobvious.

CONCLUSION

Reconsideration and allowance are respectfully requested.

Respectfully,



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